

APR 21 2008

DOCKET NO. 2003.10.023.WS0
U.S. SERIAL NO. 10/811,005
PATENT**REMARKS**

Claims 1-20 were originally filed in the present application.

Claims 1-20 are pending in the present application.

Claims 1-20 were rejected in the February 20, 2008 Office Action.

No claims have been allowed.

Claims 1, 2, 7 and 16-19 are amended herein.

Claims 1-20 remain in the present application.

Reconsideration of the claims is respectfully requested.

Applicant notes that amendments to the Claims included herein do not add any new matter.

Accordingly, Applicant respectfully requests that these amendments be entered.

I. REJECTION UNDER 35 U.S.C. § 102

The Examiner rejected Claims 1-3, 7-10, 14 and 16 under 35 U.S.C. §102(b) as being anticipated by U. S. Patent No. 6,353,599 to *Bi, et al.* ("*Bi*"). Of these, Claims 1, 8 and 16 are independent. These rejections are respectfully traversed for the reasons discussed below.

A prior art reference anticipates a claimed invention under 35 U.S.C. § 102 only if every element of the claimed invention is identically shown in that single reference, arranged as they are in the claims. (*MPEP* § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed

DOCKET NO. 2003.10.023.WS0
U.S. SERIAL NO. 10/811,005
PATENT

invention is found in a single prior art reference. (*MPEP* § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985)).

The Applicants respectfully submit that *Bi* fails to disclose, teach or suggest “a server status store operable to store current server status information for each of a plurality of servers, the current server status information for each server comprising load information for the server; and a server assigner operable to collect server status information from the servers, to store the server status information in the server status store as current server status information, and to assign one of the servers to host one of the wireless communication devices based on the current server status information,” as recited by independent Claim 1, as amended.

To show the claimed server status store, the Examiner cites the access point of *Bi*. Office Action, page 2. However, the access point is not a data store and does not store current server status information for the servers. Instead, the access point is simply a wireless LAN adapter that “allows multiple wireless interface devices 100 to be connected to one or more LAN segments.” *Bi*, col. 57, line 66- col. 58, line 7. The passage cited by the Examiner merely describes “a system in which multiple wireless interface devices 100 interface in real time with a multi-device server...or multiple servers...” by way of an access point. *Bi*, col. 57, lines 8-34. Thus, the Examiner has failed to cite any type of data store, much less a server status store that is operable to store current server status information for each of a plurality of servers.

Similarly, the Examiner has failed to cite a server status store that is capable of storing load information for multiple servers. To show this claim element, the Examiner cites a passage of *Bi*

DOCKET NO. 2003.10.023.WS0
U.S. SERIAL NO. 10/811,005
PATENT

that describes "Wireless Enumeration of Available Servers." Office Action, page 2 and *Bi*, col. 58, lines 41-65. In this passage, *Bi* simply describes a service advertising protocol (SAP) that "enables the servers 1708, 1710 to provide a broadcast function for broadcasting its server name and node address to the network." Col. 58, lines 46-49. Thus, the Applicant can find no relevance of this passage to the claimed server status store, which is operable to store current server status information that includes load information for each of a plurality of servers.

In contrast, the claimed server status store is operable to store current server status information for each of a plurality of servers. As described in the present application, "current" server status information is "the most recently received server status...for serving state machines 214-216 that periodically provide updated server status information such that the current server statuses...comprise relatively fresh information. Thus, although the server status...may vary, the information stored in the server status store 302 is kept current." Present Application, para. 54, lines 8-14. As described above, the cited portion of *Bi* fails to disclose, teach or suggest a data store capable of storing current status information such as this.

Furthermore, the claimed current server status information includes load information for each server. As defined in the present application, "load information" refers to "actual load information for the serving state machine 214-216 based on the activities of any previously registered wireless communication devices 202, as opposed to simply the number of registered wireless communication devices 202." Present Application, para. 41, lines 7-11. *Bi* fails to disclose, teach or suggest using this type of load information. Instead, *Bi* simply teaches that load balancing is provided based on

DOCKET NO. 2003.10.023.WS0
U.S. SERIAL NO. 10/811,005
PATENT

“the number of hops for each server and number of log-in users per processor on each server.” *Bi*, col. 62, lines 26-28.

In addition, *Bi* teaches that the system checks the number of users per processor on each server and passes this information on to the wireless interface device to provide load balancing. *Bi*, col. 62, lines 6-8. When a wireless interface device initiates a request to launch an application, the number of hops for each server and the number of log-in users per processor on each server (which is checked by the system) are multiplied to obtain a product. *Bi*, col. 62, lines 17-19 and 27-29. The server with the smallest product is then selected to provide load balancing. *Bi*, col. 62, lines 38-39. Thus, *Bi* not only fails to teach load information as defined in the present application, but *Bi* also seems to be teaching that its type of load information is calculated at the time the load balancing is to be performed, not stored in a server status store.

Finally, to show the claimed server assigner, the Examiner cites the load balancing method taught by *Bi*. Office Action, pages 2-3. However, as described above, *Bi* teaches load balancing based on a number of hops and a number of users per processor. *Bi*, col. 62, lines 1-50. In contrast, the claimed server assigner is operable to assign one of the servers to host one of the wireless communication devices based on the current server status information, which includes load information (as defined above). As *Bi* fails to teach storing current server status information that includes the defined load information, *Bi* also fails to teach assigning servers based on this current server status information. Therefore, for at least these reasons, independent Claim 1 is not

DOCKET NO. 2003.10.023.WS0
U.S. SERIAL NO. 10/811,005
PATENT

anticipated by the cited art. Therefore, the Applicant respectfully submits that this rejection should now be withdrawn.

Similar to independent Claim 1, independent Claim 8 recites "at least one interrogating state machine operable to receive a registration request from one of a plurality of wireless communication devices and, based on the registration request, to assign one of the servers to host the wireless communication device based on a current system status, the current system status based on the varying system status," and independent Claim 16, as amended, recites "assigning one of the servers to host the wireless communication device based on a current server status for each of the servers, the current server status for each server comprising load information for the server." Accordingly, for the reasons discussed above in connection with Claim 1, independent Claims 8 and 16 are also not anticipated by the cited art. Therefore, the Applicants respectfully submit that these rejections should now be withdrawn.

Dependent Claims 2-3 and 7, which depend from independent Claim 1, and dependent Claims 9-10 and 14, which depend from independent Claim 8, are also not anticipated by the cited art because they include the limitations of their respective base claims and add additional elements that further distinguish the art. Therefore, the Applicants respectfully submit that these rejections should now be withdrawn.

The Applicant also disagrees with the Examiner's rejections of Claims 1-3, 7-10, 14 and 16 based on additional misdescriptions and/or misapplications of *Bi* to at least some of Claims 1-3, 7-10, 14 and 16. However, the Applicant's arguments regarding those other shortcomings of *Bi* are

DOCKET NO. 2003.10.023.WS0
U.S. SERIAL NO. 10/811,005
PATENT

moot in view of the Claim 1 arguments above. However, the Applicant reserves the right to dispute in future Office Action responses the appropriateness and the applications of *Bi* to the claims of the present application, including the right to dispute assertions made by the Examiner in the February 20, 2008 Office Action.

II. REJECTION UNDER 35 U.S.C. § 103

The Examiner rejected Claim 15 under 35 U.S.C. §103(a) as being unpatentable over *Bi*, Claims 5, 6, 12, 13, 17-20 under 35 U.S.C. §103(a) as being unpatentable over *Bi* in view of U.S. Patent Application No. 2003/02106694 to *Jayaraman, et al.* ("*Jayaraman*"), and Claims 4 and 11 under 35 U.S.C. §103(a) as being unpatentable over *Bi* in view of the "admitted prior art" in the background of the instant application ("*APA*"). These rejections are respectfully traversed for the reasons discussed below.

Dependent Claims 4-6, which depend from independent Claim 1, dependent Claims 11-13 and 15, which depend from independent Claim 8, and dependent Claims 17-20, which depend from independent Claim 16, are not made obvious by the cited art because they include the limitations of their respective base claims, which are patentable as described above, and add additional elements that further distinguish the art. Therefore, the Applicants respectfully submit that these rejections should also now be withdrawn.

The Applicant also disagrees with the Examiner's rejections of Claims 4-6, 11-13, 15 and 17-20 based on additional misdescriptions and/or misapplications of *Bi*, *Jayaraman* and *APA* to at least

DOCKET NO. 2003.10.023.WS0
U.S. SERIAL NO. 10/811,005
PATENT

some of Claims 4-6, 11-13, 15 and 17-20. However, the Applicant's arguments regarding those other shortcomings of *Bi, Jayaraman* and *APA* are moot in view of the Claim 1 arguments above. However, the Applicant reserves the right to dispute in future Office Action responses the appropriateness and the applications of *Bi, Jayaraman* and *APA* to the claims of the present application, including the right to dispute assertions made by the Examiner in the February 20, 2008 Office Action.

RECEIVED
CENTRAL FAX CENTER

APR 21 2008

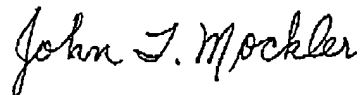
DOCKET NO. 2003.10.023.WS0
U.S. SERIAL NO. 10/811,005
PATENTSUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at jmockler@munckbutrus.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS CARTER, P.C.



John T. Mockler
Registration No. 39,775

Date: April 21, 2008

P.O. Drawer 800889
Dallas, Texas 75380
Phone: (972) 628-3600
Fax: (972) 628-3616
E-mail: jmockler@munckbutrus.com